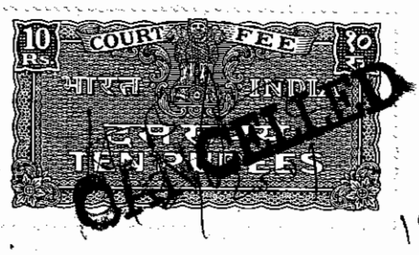

CANCELLED

(A) (3)

10

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR
Writ Petition No. 404 Of 2001
PETITION UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA

PETITIONER : Maksudan Prasad Yadav, son of Ram Avtar Yadav, Peon, District Election Office, Distt. Rajnandgaon Chhattisgarh.

V E R U S

RESPONDENTS :
1. State of M.P.
   Through the Secretary
   Law and Legal Department,
   Election works Department,
   State Government of M.P.
   Bhopal (M.P.)
2. Chief Election Officer,
   Madhya Pradesh, Madhyamik
   Siksha Mandal Parisar, Bhopal (M.P.)
3. Collector, Rajnandgaon (C.G.)
4. Secretary, the General
   Administration Department
   Government of M.P. Bhopal (M.P.)
5. State Administrative Tribunal,
   Through its Member Judicial
   Raipur Bench, Near Clock
   Tower, Kuchari Chowk,
   Raipur (C.G.)

P. R. No. 3481/01 Received by Shri Ramay A. Rajput on 1-3-01

DETAILS OF PETITION :-

1. **PARTICULARS OF THE PETITIONER :- As above in title.**
2. **PARTICULARS OF RESPONDENTS :- As above in title.**
3. **ORDER AGAINST WHICH THE PETITION IS BEING MADE :-**
   O.A no. 242 of 99.

(10)

HIGH COURT OF JUDICATURE, CHHATTISGARH AT BILASPUR

Writ Petition No. 404 of 2001

Maksudan Prasad Yadav

v.

State of M.P. & ors.

O R D E R

The following order of the Court was passed by R.S. Garg,J.-

By this petition under Article 227 of the Constitution of India, the petitioner seeks to challenge the correctness, validity and propriety of the order dated 31.8.1999 and 15.12.1999 passed in O.A.No.242 of 1999 by learned Member (Judicial), M.P. Administrative Tribunal, Raipur.

2. Brief facts necessary for disposal of the petition are that the petitioner who was working as temporary employee with the respondent submitted a petition before the State Administrative Tribunal praying that he be regularised on the post held by him. During the pendency of the petition, the petitioner made an application seeking an interim relief that the applicant was appointed till 31.8.99 and as the respondent no.4 had ordered that the vacant post be filled by way of absorption and as the petitioner was not absorbed on the said post the applicant be permitted to continue. The learned Member of the Tribunal granted the interim relief in favour of the petitioner directing that if the applicant was not already terminated he would not be terminated till next date of hearing. While

(21)

directing so, the Tribunal further ordered that if in future the petitioner was not held entitled to any relief or was unable to prove his case, then he shall not be entitled to any salary for the period beyond 31.8.1999.

3. The matter came up for hearing before the Tribunal on 15.12.1999. It was finally heard and the Tribunal ordered that the non-applicants shall consider the case of the present petitioner and if the case of the petitioner is found similar to the case of Anil Lakhera v. State of M.P. , then the respondents shall appoint the applicant/petitioner on regular basis against the available vacant post or against the post which may fall vacant in near future subject to their verification and satisfaction regarding entitlement of the applicant on the basis of surplus employees in E-Grade. While disposing of the petition, the learned Tribunal also ordered that in view of the order dated 31.8.99 the applicant would not be entitled to any salary.

4. The petitioner submits that the petitioner had worked for the period from 31.8.99 to 15.12.99, therefore, he is entitled to the salary and the period spent by him on duty between 31.8.99 and 15.12.99 deserves to be counted towards the period spent in service.

5. Learned counsel for the State, however, contended that in view of the order dated 31.8.99 and the said order was not challenged till final disposal of the Original Application, the petitioner is not entitled to any relief.

6. Undisputedly, the petitioner worked for the period from 31.8.99 to 15.12.99. It is unheard that a government servant who works on the post would not be entitled to any salary simply because of some interim order of a Tribunal or Court. True it is that the Tribunal made such an order on 31.8.99 but in the opinion of this Court the said order cannot be ~~adhered to~~ approved. If under the interim relief granted by the Tribunal the petitioner was allowed to occupy the post and permitted to work, then it is expected of the government that respecting the labour it would pay the salary to the said labour and would not seek protection under some order which otherwise cannot be ~~adhered to~~ approved. As the petitioner had worked with the respondent from 31.8.99 to 15.12.99, we are of the opinion that he is entitled to his salary for the said period. The period between 31.8.99 and 15.12.99 was in fact spent by the petitioner on duty, therefore, the said period has to be counted by the authorities as period spent towards duies.

6. The petition to the extent indicated above is allowed. No costs.

Sd/-
Chief Justice
2-5-2001

Sd/-
R.S. Garg
Judge
2-5-2001

Nair/*